

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

LENA MARIE LINDBERG,

Plaintiff,

v.

Case No: 6:21-cv-1746-RBD-DCI

VINCENT ALBERT CITRO, et al.,

Defendants.

REPORT AND RECOMMENDATION

This cause comes before the Court for consideration without oral argument on the following motion:

MOTION: Motion to Appeal In Forma Pauperis (Doc. 27)

FILED: March 29, 2023

THEREON it is Recommended that the motion be DENIED.

This matter came before the undersigned based on the Court’s October 26, 2021 Order requiring the undersigned to screen Plaintiff’s filings due to her pattern of filing frivolous documents. *See In Re Lena Marie Lindberg*, 6:21-mc-163-RBD-DCI, Doc 1. Following the procedure specified by the District Judge, the undersigned reviewed Plaintiff’s filing and, on November 4, 2021, entered a Report recommending that Plaintiff’s Complaint be dismissed with prejudice. Doc. 4. Plaintiff did not object to that Report, and, on November 18, 2021, the District Judge adopted the Report and dismissed Plaintiff’s Complaint with prejudice. Doc. 13.

Then, in March 2023, Plaintiff filed an “emergency” notice of appeal, seeking to appeal the District Judge’s Order. Doc. 14. Plaintiff also filed an “Application to Proceed in District

Court Without Prepaying Costs,” which the undersigned construes as a motion for leave to appeal *in forma pauperis*. Doc. 17. The undersigned entered a Report recommending that that motion be denied because the appeal was not taken in good faith. Plaintiff did not object to that Report, and on April 18, 2023, the District Judge adopted the Report and denied the motion. Doc. 23.

Once again, Plaintiff filed a notice of appeal (Doc. 27) and an “Application to Proceed in District Court Without Prepaying Costs,” which the undersigned construes as a motion for leave to appeal *in forma pauperis*, Doc. 27 (the Motion).

An appeal may not be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3). The good faith standard is an objective standard. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962). An appeal is not taken in good faith if the issues presented are frivolous. *Id.* The undersigned has reviewed the Notice of Appeal, the Motion, and the documents attached to those filings. The undersigned finds that the basis of Plaintiff’s intended appeal is unclear. That said, there is nothing in the Notice of Appeal or the Motion that demonstrates that the Court’s bases for denying the request to appeal *in forma pauperis* was erroneous. Accordingly, the undersigned finds that Plaintiff has failed to raise any issues on appeal with arguable merit and, thus, the appeal is not taken in good faith. *See also* Eleventh Circuit Court of Appeals Order of Dismissal in *In Re Lena Marie Lindberg*, 6:21-mc-163-RBD-DCI, Doc 15 (entered March 21, 2023).

Accordingly, it is **RECOMMENDED** that:

1. The Motion (Doc. 27) be **DENIED**;
2. The Court certify the appeal is not taken in good faith; and
3. The Clerk be directed to notify the Eleventh Circuit in accordance with Fed. R. App. P. 24(a)(4).

The Clerk is directed to send a copy of this report to Plaintiff by regular and certified mail.

NOTICE TO PARTIES

The party has fourteen days from the date the party is served a copy of this report to file written objections to this report's proposed findings and recommendations or to seek an extension of the fourteen-day deadline to file written objections. 28 U.S.C. § 636(b)(1)(C). A party's failure to serve and file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1; 28 U.S.C. § 636(b)(1).

Recommended in Orlando, Florida on May 23, 2023.



DANIEL C. IRICK
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

Presiding District Judge
Counsel of Record
Unrepresented Party
Courtroom Deputy